IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.122 OF 2006
IN
APPEAL FROM ORDER ST.NO.2755 OF 2006

The Municipal Corpn. of Gr.Bombay. ..Applicant.

V/s.

Mr.Shyamsundar R. Singh & Ors. ..Respondents.

Mrs.Geeta Joglekar for BMC.

Mr.J.N.Jayale for respondent No.1.

CORAM: A.M.KHANWILKAR,J

DATE : APRIL 12, 2006.

P.C. :

1. Heard counsel for the parties. Perused the pleadings.

2. From the pleadings as it stands, it is obvious, the fact that order has been pronounced on 31st August, 2005, which is impugned in this appeal came to the knowledge of the applicant on 29th September, 2005. These dates assume significance to decide the point in issue in the backdrop that earlier the matter was assigned to the Court Room No.7. In fact the arguments were concluded before Court Room No.7. The Judge who was sitting in Court Room No.7 was later on assigned to Court Room No.28.

In this backdrop, application was moved by the respondents to transfer the case to Court Room No.28, which request was accepted by the Principal Judge. Indeed, the respondents had given prior notice to the applicant before moving the application for transfer of case to Court Room No.28. The fact remains that after the transfer of the case to Court Room No.28, the applicant did not appear before that court. It is stated in the application that the applicant had lost track of the matter. The applicant as soon as became aware of the order of 29th September, 2005 took search of the said order from the court proceedings, as is noted in paragraph-9 onwards. In my opinion, explanation offered in the application will have to be accepted as sufficient cause for condoning delay of about 88 days in the interest of justice. The application is therefore, allowed in terms of prayer clause (a).